D.B. CIVIL SPECIAL APPEAL (W) NO.110/2006
(Municipal Board, Chittorgarh & Ors. Vs. Jagdish)

Date of order : 20.12.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. N.M. Lodha, Addl. Advocate General.

None has appeared on behalf of the respondents inspite of service despite waiting for some time. In the circumstances, we have heard the appeal as directed earlier while issuing notice of the appeal.

The respondent who is an employee of the appellant has made an application for transferring him from construction department to revenue department. In the written application, accusations were made against the Municipal Administration about the misuse of public money, while alleging that the person junior to him has been placed in the revenue department. Against user of the aforesaid language, unbecoming of a subordinate employee, the respondent was suspended and was subjected to enquiry under Rule 17 of the Rajasthan CCA Rules, which have been made applicable to the disciplinary proceedings against the employees of the Municipal Council. A charge of making use of incompatible language with the status of subordinate

employee was proved and the disciplinary authority imposed a penalty of stoppage of one grade increment with cumulative effect, which is a minor penalty under the Rules, which penalty could be imposed while following the procedure under Rule 17. However, looking to the gravity of offence and finding of oblique motive in seeking a posting to the revenue department, which is a revenue collecting office, punishment was enhanced by the Appellate Authority from stoppage of one grade increment with cumulative effect to stoppage of two grade increments with cumulative effect which under the rules is a penalty which could be imposed only after holding an enquiry under Rule 16.

The orders of the punishment were challenged before the learned Single Judge through SB Civil Writ Petition No.5304/1993, which has been allowed by learned Single Judge on the ground that the penalty of stoppage of two grade increments with cumulative effect was without holding enquiry under Rule 16 by following the procedure laid thereunder and quashed the impugned orders of punishment.

Even on its own reasoning of the learned Single Judge, there was no defect in procedure before imposition of penalty of stoppage of one grade increment with cumulative effect by the disciplinary authority. Moreover, looking to the fact that

respondent has not impleaded Munnicipal Council as party by name and instead has impleaded Administrator, Chittorgarh and there was no denial of the writing of the letter dated 10.3.1987 in a language, which was unbecoming of a civil servant holding the subordinate office in the Municipality, on the admitted position, the imposition of penalty of stoppage of two grade increments with cumulative effect could not have been stated to be disproportionate to the offence admitted to have been proved. In that view of the matter, this Court ought not to have exercised extra ordinary jurisdiction to interfere with the orders passed by disciplinary authority and the appellate authority.

Accordingly, the appeal is allowed. The writ petition is dismissed. No costs.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

arun